

A BILL

To Be Entitled

*providing that certain acts shall be
unlawful unless the owner of the
land or water gives consent
thereto;*

AN ACT making it unlawful except under the provisions of this Act, for any person to hunt, take, kill or attempt to kill, or possess, any game bird or game animal in Brown County at any time; to take, kill or trap or attempt to take, kill or trap any fur-bearing animal in said county or to take or attempt to take any fish or other aquatic life or marine animals from said county by any means or method; providing the powers, duties and authority of the Game and Fish Commission; requiring the Game and Fish Commission to make investigation with respect to the depletion and waste of the wild-life resources of said county; requiring the Commission to provide an open season or period of time when it shall be lawful to take a portion of the wild-life resources of said county; defining depletion and waste; providing for the issuance of the antlerless deer permit; providing for a public hearing; providing for the adoption of proclamations, orders, rules or regulations of the Game and Fish Commission and the effective period thereof; providing for the publication of the regulations; providing venue for suits to test the validity of this Act or of the proclamations, rules, regulations or orders of the Commission; providing a penalty; providing for the forfeiture of licenses; defining wild-life resources; repealing certain laws; prescribing a period of time within which the Game and Fish Commission may conclude its investigations, hold its hearings, and promulgate its proclamations, rules, regulations and orders; providing a savings clause; and declaring an emergency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

Section 1. This Act shall apply only to Brown County. It shall be unlawful, except as provided in this Act, for any person to hunt, take, kill, or possess, or attempt to take or kill any game bird or game animal in said county at any time; or to take, kill, trap or possess, or attempt to take, kill or trap any fur-bearing animal in said county at any time; or to take or attempt to take any fish or other aquatic life or marine animals by any means or method in said county at any time. In order to better conserve an ample supply of the wild-life resources in said county, to the end that the most reasonable and equitable privileges may be enjoyed by the people of this State and their posterity in their ownership and in the taking of such resources, it is deemed for the public welfare that this Legislature should provide a law adaptable to changing conditions and emergencies which threaten depletion or waste of the wildlife

resources in said county. The game and Fish Commission is therefore granted the authority, power and duty to provide, by proclamation, rule or regulation, from time to time, periods of time when it shall be lawful to take a portion of the wild-life resources of said county, when its investigation and findings of fact disclose that there is an ample supply of such wild-life resources that a portion thereof may be taken which will not threaten depletion or waste of such supply. It shall also, by proclamation, rule or regulation, from time to time, provide the means and the method and the place and the manner in which such wild-life resources may be lawfully taken; provided, however, that it shall be unlawful for any person to hunt, take, kill or possess, or attempt to hunt, take or kill any game bird or game animal in said county at any time; or to take, kill, trap or possess, or attempt to take, kill or trap any fur-bearing animal in said county at any time; or to take or attempt to take any fish by any means or method in said county at any time; unless the owner of the land or the water, or his duly authorized agent, shall give consent thereto.

Sec. 2. It shall be the duty of the Game and Fish Commission to conduct, from time to time, or continuously, scientific research investigations and studies of the supply, economic value, environment, breeding habits, and so far as possible the sex ratio of the different species of wild-life resources as well as the factors affecting their increase or decrease, particularly with reference to hunting, trapping, fishing, disease, infestation, predation, agricultural pressure, over-population, and any and all other factors that enter into a reduction or an increase in the supply of such wild-life resources of the said county. Pursuant to and based upon such studies, said Commission shall enter its findings of fact with respect thereto, and if, in the opinion of the Commission, an open season or period of time may be safely provided for any of the wild-life resources of said county, said Commission is authorized and directed from time to time to provide an open season or period of time when such wild-life resources may be taken. The proclamation, rule, or regulation issued by the Commission shall be specific as to the quantity, species, sex, ^{and} in so far as

possible, age or size that may be taken. Such proclamation, rule or regulation shall provide the method or means that may be resorted to as well as the area, county or portion of the county where such wild-life resources may be taken. In order to prevent depletion or waste of the wild-life resources of said County, the Game and Fish Commission shall have authority from time to time by proclamation, rule or regulation to conserve the wild-life resources of said county by an open season or period of time when it shall be lawful to take a portion of such wild-life resources of said county.

Sec. 3. When said Commission finds from its investigations herein provided for, that danger of depletion, as defined in this Act, of any species of fish, game bird, game animal or fur-bearing animal exists in any portion of the said county, it shall be the duty of said Commission to revoke or modify or otherwise amend its order or orders so as to deter or prevent contribution to depletion of such species by the taking thereof. When said Commission finds that danger of waste, as defined in this Act, of any of such species of fish, game bird, game animal or fur-bearing animal, or sex thereof, exists in any portion of said county, it shall be the duty of said Commission to issue or amend or revoke or modify such of its rules and regulations as will afford to all of the people of this State the most equitable and reasonable privileges in the pursuit, taking or killing of such species or sex thereof in said area. When the Commission finds that danger of depletion exists in any area by virtue of an Act of God, the Commission shall declare a state of emergency as to such species in said area, and its orders, rules and regulations issued under such state of emergency shall take effect and be in full force immediately upon issuance thereof.

Sec. 4. "Depletion" as used in this Act shall be construed to mean reduction of a species below immediate recuperative potentials by any deleterious cause or causes.

Sec. 5. "Waste" as used in this Act shall be construed to mean supply of a species or sex thereof sufficient that a seasonal harvest thereof will not prevent or, in the case of over-population, that will aid in the reestablishment of

normal numbers of such species.

Sec. 6. The Game and Fish Commission's proclamation, rule or regulation permitting the hunting or taking of antlerless deer shall not be valid until the owner or person in charge of the land upon which antlerless deer are to be taken shall have agreed in writing to the removal by hunting of such antlerless deer from his tract under supervision and regulation of the Commission; and to the number of antlerless deer which may be removed therefrom. No person shall, in any event, hunt or kill any antlerless deer without first having procured an antlerless deer permit issued by the Game and Fish Commission. Such antlerless deer permit shall be issued in such form and under such rules as may be prescribed by the Game and Fish Commission.

Sec. 7. There shall be a public hearing held in said county affected by any proposed rule, regulation or order before such proposed rule, regulation, or order is adopted in the said county. Notice of this public hearing must be given in a newspaper published in such county at least ten (10) days prior to the date of the hearing. If no newspaper is published in the county, notice of such hearing must be given in a newspaper published in an adjoining County and in the newspaper best known to the inhabitants of the county in which the rule, regulation, or order is to be in effect. The hearing may be conducted by an employee of the Game and Fish Commission upon order of the Commission or upon order of one (1) member of the Commission, it not being necessary for the Commission or some member of the Commission to be present.

Sec. 8. Orders, rules and regulations shall be adopted by a quorum of the Commission, and only at any regular or special Commission meeting or meetings, of the date and time of which each Commissioner shall have been notified in writing by the Executive Secretary of said Commission (or the Assistant Executive Secretary in his absence), and such meetings for such purpose shall be held only in the Commission's office at Austin, Texas. Any person interested shall be entitled to be heard at such meetings and to introduce evidence as to imminence of waste or depletion, as defined in this Act. Six (6)

members, or the Chairman and five (5) members of said Commission shall constitute a quorum. No order, rule or regulation, general or local, shall be adopted at any regular or special meeting of the Commission unless a quorum is present.

Sec. 9. Orders, rules and regulations adopted by the Commission shall become effective at a time fixed by the Commission but not earlier than fifteen (15) days after their adoption, except in case of emergency as provided in this Act, and shall continue in full force and effect until they shall expire by their own terms, or are revoked or amended by said Commission.

Sec. 10. Immediately after its adoption a copy of each order, rule or regulation adopted by said Commission shall be numbered and filed in its office in Austin, Texas; and a copy thereof shall be filed in the office of the Secretary of State, and the office of each County Clerk and each County Attorney in the county or counties affected by the order, rule or regulation and a mimeographed copy shall be furnished to each employee of the Commission.

Sec. 11. The particular regulatory powers herein granted to said Commission shall not be construed to limit other and general powers conferred upon it by law.

Sec. 12. The Game and Fish Commission is hereby expressly given the power and authority to review its own orders and to modify or revise the same as it shall find the facts to warrant. Any suit that may be filed to test the validity of any proclamation, order, rule or regulation of the Commission, passed pursuant to this Act, must be brought in Travis County and not elsewhere. Such suit shall be advanced by trial and determined as quickly as possible. In all such trials the burden of proof shall be upon the party complaining of such order, proclamation, rule or regulation to show it is invalid.

Sec. 13. (a) Any person who shall violate any provision of this Act, or any person who shall violate any proclamation, order, rule, or regulation issued by the Game and Fish Commission under the provisions of this Act, shall be deemed guilty of a misdemeanor and upon conviction therefor shall be fined a

sum not less than Twenty-five Dollars (\$25.00) nor more than Two Hundred Dollars (\$200.00).

(b) Any person convicted of violating this Act or any proclamation, order, rule or regulation of the Game and Fish Commission under the provisions of this Act relating to fishing, hunting or trapping in any manner, shall within the discretion of the Court or Jury trying the offense, forfeit such fishing, hunting or trapping license, for such period of time as the Court or Jury might determine, but such period of forfeiture shall not extend beyond the remainder of the license year.

(c) No person who has had his license forfeited under this Act shall be entitled to purchase or receive from said Commission, or any of its authorized agents, a similar license for such period of forfeiture; and it shall be unlawful for such person to purchase or possess another such license for such period. Any person violating any of the provisions of this Section shall be deemed guilty of a misdemeanor and upon conviction shall be fined in a sum not less than Twenty-five Dollars (\$25.00) nor more than Two Hundred Dollars (\$200.00).

Sec. 14. For the purpose of this Act, the wild-life resources of said county are defined to be all the game birds and game animals, fur-bearing animals of all kinds, fish and other aquatic life and marine animals of all kinds.

Sec. 15. All laws and parts of laws, both general and special, prescribing an open season or period of time when it shall be lawful to take or kill any of the wild-life resources of said county, together with all laws prescribing a closed season for such killing or taking, as well as all laws or parts of laws, general or special, providing for open waters or closed waters, and all laws and parts of laws, general and special, prescribing or limiting the method or means or manner in which any of the wild-life resources of said county are taken, be and the same are hereby repealed. Any and all laws, general and special, in conflict with the provisions of this Act are likewise repealed to the extent of such conflict only.

Sec. 16. From and after the effective date of this Act there shall be a period of time not to exceed ninety (90) days within which the Game and Fish Commission may conclude its investigations, hold its hearings, and promulgate its proclamations, rules, regulations and orders. Until such rules, regulations and orders of the Game and Fish Commission are adopted in accordance with the provisions of this Act, all general and special laws relating to the taking of any of the wild-life resources shall remain in full force and effect.

Sec. 17. It is hereby declared to be the legislative intent to enact each separate provision of this Act independent of all other provisions, and the fact that any section, word, clause, sentence, or part of this Act shall be declared unconstitutional shall in no event affect any other section, word, clause, sentence, or part thereof; and it is hereby declared to be the intention of the Legislature to have passed each sentence, section, clause or part thereof irrespective of the fact that any other section, sentence, clause or part thereof may be declared invalid.

Sec. 18. The fact that the present law does not adequately protect the wild-life resources of this State, in the said county of Brown, from depletion and waste; and the further fact that the Calendars of both Houses of the Legislature are crowded, create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each House be suspended, and said rule is hereby suspended, and that this Act shall take effect and be in force from and after its passage, and it is so enacted.

FORM A

(For favorable and unfavorable reports on bills and resolutions, where no committee amendments are recommended.)

COMMITTEE ROOM

Date Jul. 16, 1959

Hon. Waggoner Carr

Speaker of the House of Representatives.

Sir:

We, your Committee on Game & Fisheries, to whom was referred H. B. No. 258, have had the same under consideration and beg to report back with recommendation

{ ~~do not~~ } pass, and be ~~passed~~ printed

W. F. Oliver

Chairman.

(When this form is used for a favorable report on a general bill the words "do not" are marked out. If the bill is a local bill the word "not" should be inserted before the word "printed." When used for an unfavorable report the word "do" is marked out, the comma after "pass" is changed to a period, and the remaining words also marked out.

When this form is used for a simple or concurrent resolution the comma after "pass" should be changed to a period and the remaining words stricken out because resolutions are printed in the Journal when first introduced.)

By: Sudderth

H. B. No. 258

A BILL TO BE ENTITLED

AN ACT

making it unlawful except under the provisions of this Act, for any person to hunt, take, kill or attempt to kill, or possess, any game bird or game animal in Brown County at any time; to take, kill or trap or attempt to take, kill or trap any fur-bearing animal in said County or to take or attempt to take any fish or other aquatic life or marine animals from said County by any means or method; providing the powers, duties and authority of the Game and Fish Commission; requiring the Game and Fish Commission to make investigation with respect to the depletion and waste of the wildlife resources of said County; requiring the Commission to provide an open season or period of time when it shall be lawful to take a portion of the wildlife resources of said County; providing that certain acts shall be unlawful unless the owner of the land or water gives consent thereto; defining depletion and waste; providing for the issuance of the antlerless deer permit; providing for a public hearing; providing for the adoption of proclamations, orders, rules or regulations of the Game and Fish Commission and the effective period thereof; providing for the publication of the regulations; providing venue for suits to test the validity of this Act or of the proclamations, rules, regulations or orders of the Commission; providing a penalty; providing for the forfeiture of licenses; defining wildlife resources; repealing certain laws; prescribing a period of time within which the Game and Fish Commission may conclude its investigations, hold its hearings, and promulgate its proclamations, rules, regulations and orders; providing a savings clause; and declaring an emergency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

Section 1. This Act shall apply only to Brown County. It shall be unlawful, except as provided in this Act, for any person to hunt, take, kill, or possess, or attempt to take or kill any game bird or game animal in said County at any time; or to take, kill, trap or possess, or attempt to take, kill or trap any fur-bearing animal in said County at any time; or to take or attempt to take any fish or other aquatic life or marine animals by any means or method in said County at any time. In order to better conserve an ample supply of the wildlife resources in said County, to the end that the most reasonable and equitable privileges may be enjoyed by the people of this State and their posterity in their ownership and in the taking of such resources, it is deemed for the public welfare that this Legislature should provide a law adaptable to changing conditions and emergencies which threaten depletion or waste of the wildlife resources in said County. The Game and Fish Commission is therefore granted the authority, power and duty to provide, by proclamation, rule or regulation, from time to time, periods of time when it shall be lawful to take a portion of the wildlife resources of said County, when its investigation and findings of fact disclose that there is an ample supply of such wildlife resources that a portion thereof may be taken which will not threaten depletion or waste of such supply. It shall also, by proclamation, rule or regulation, from time to time, provide the means and the method and the place and the manner in which such wildlife resources may be lawfully taken; provided, however, that it shall be unlawful for any person to hunt, take, kill or possess,

or attempt to hunt, take or kill any game bird or game animal in said County at any time; or to take, kill, trap or possess, or attempt to take, kill or trap any fur-bearing animal in said County at any time; or to take or attempt to take any fish by any means or method in said County at any time; unless the owner of the land or the water, or his duly authorized agent, shall give consent thereto.

Sec. 2. It shall be the duty of the Game and Fish Commission to conduct, from time to time, or continuously, scientific research investigations and studies of the supply, economic value, environment, breeding habits, and so far as possible the sex ratio of the different species of wildlife resources as well as the factors affecting their increase or decrease, particularly with reference to hunting, trapping, fishing, disease, infestation, predation, agricultural pressure, over-population, and any and all other factors that enter into a reduction or an increase in the supply of such wildlife resources of the said County. Pursuant to and based upon such studies, said Commission shall enter its findings of fact with respect thereto, and if, in the opinion of the Commission, an open season or period of time may be safely provided for any of the wildlife resources of said County, said Commission is authorized and directed from time to time to provide an open season or period of time when such wildlife resources may be taken. The proclamation, rule, or regulation issued by the Commission shall be specific as to the quantity, species, sex, and in so far as possible, age or size that may be taken. Such proclamation, rule or regulation shall provide the method or means that may be resorted to as well as the area, county or portion of the county where such wildlife resources

may be taken. In order to prevent depletion or waste of the wildlife resources of said County, the Game and Fish Commission shall have authority from time to time by proclamation, rule or regulation to conserve the wildlife resources of said County by an open season or period of time when it shall be lawful to take a portion of such wildlife resources of said County.

Sec. 3. When said Commission finds from its investigations herein provided for, that danger of depletion, as defined in this Act, of any species of fish, game bird, game animal or fur-bearing animal exists in any portion of the said County, it shall be the duty of said Commission to revoke or modify or otherwise amend its order or orders so as to deter or prevent contribution to depletion of such species by the taking thereof. When said Commission finds that danger of waste, as defined in this Act, of any of such species of fish, game bird, game animal or fur-bearing animal, or sex thereof, exists in any portion of said County, it shall be the duty of said Commission to issue or amend or revoke or modify such of its rules and regulations as will afford to all of the people of this State the most equitable and reasonable privileges in the pursuit, taking or killing of such species or sex thereof in said area. When the Commission finds that danger of depletion exists in any area by virtue of an Act of God, the Commission shall declare a state of emergency as to such species in said area, and its orders, rules and regulations issued under such state of emergency shall take effect and be in full force immediately upon issuance thereof.

Sec. 4. "Depletion" as used in this Act shall be construed to mean reduction of a species below immediate recuperative potentials by any deleterious cause or causes.

Sec. 5. "Waste" as used in this Act shall be construed to mean supply of a species or sex thereof sufficient that a seasonal harvest thereof will not prevent or, in the case of over-population, that will aid in the re-establishment of normal numbers of such species.

Sec. 6. The Game and Fish Commission's proclamation, rule or regulation permitting the hunting or taking of antlerless deer shall not be valid until the owner or person in charge of the land upon which antlerless deer are to be taken shall have agreed in writing to the removal by hunting of such antlerless deer from his tract under supervision and regulation of the Commission; and to the number of antlerless deer which may be removed therefrom. No person shall, in any event, hunt or kill any antlerless deer without first having procured an antlerless deer permit issued by the Game and Fish Commission. Such antlerless deer permit shall be issued in such form and under such rules as may be prescribed by the Game and Fish Commission.

Sec. 7. There shall be a public hearing held in said County affected by any proposed rule, regulation or order before such proposed rule, regulation, or order is adopted in the said County. Notice of this public hearing must be given in a newspaper published in such County at least ten (10) days prior to the date of the hearing. If no newspaper is published in the County, notice of such hearing must be given in a newspaper published in an adjoining

County and in the newspaper best known to the inhabitants of the County in which the rule, regulation, or order is to be in effect. The hearing may be conducted by an employee of the Game and Fish Commission upon order of the Commission or upon order of one (1) member of the Commission, it not being necessary for the Commission or some member of the Commission to be present.

Sec. 8. Orders, rules and regulations shall be adopted by a quorum of the Commission, and only at any regular or special Commission meeting or meetings, of the date and time of which each Commissioner shall have been notified in writing by the Executive Secretary of said Commission (or the Assistant Executive Secretary in his absence), and such meetings for such purpose shall be held only in the Commission's office at Austin, Texas. Any person interested shall be entitled to be heard at such meetings and to introduce evidence as to imminence of waste or depletion, as defined in this Act. Six (6) members, or the Chairman and five (5) members of said Commission shall constitute a quorum. No order, rule or regulation, general or local, shall be adopted at any regular or special meeting of the Commission unless a quorum is present.

Sec. 9. Orders, rules and regulations adopted by the Commission shall become effective at a time fixed by the Commission but not earlier than fifteen (15) days after their adoption, except in case of emergency as provided in this Act, and shall continue in full force and effect until they shall expire by their own terms, or are revoked or amended by said Commission.

Sec. 10. Immediately after its adoption a copy of each order, rule or regulation adopted by said Commission shall be numbered and

filed in its office in Austin, Texas; and a copy thereof shall be filed in the office of the Secretary of State, and the office of each County Clerk and each County Attorney in the county or counties affected by the order, rule or regulation and a mimeographed copy shall be furnished to each employee of the Commission.

Sec. 11. The particular regulatory powers herein granted to said Commission shall not be construed to limit other and general powers conferred upon it by law.

Sec. 12. The Game and Fish Commission is hereby expressly given the power and authority to review its own orders and to modify or revise the same as it shall find the facts to warrant. Any suit that may be filed to test the validity of any proclamation, order, rule or regulation of the Commission, passed pursuant to this Act, must be brought in Travis County and not elsewhere. Such suit shall be advanced by trial and determined as quickly as possible. In all such trials the burden of proof shall be upon the party complaining of such order, proclamation, rule or regulation to show it is invalid.

Sec. 13. (a) Any person who shall violate any provision of this Act, or any person who shall violate any proclamation, order, rule, or regulation issued by the Game and Fish Commission under the provisions of this Act, shall be deemed guilty of a misdemeanor and upon conviction therefor shall be fined a sum not less than Twenty-five Dollars (\$25) nor more than Two Hundred Dollars (\$200).

(b) Any person convicted of violating this Act or any proclamation, order, rule or regulation of the Game and Fish Commission under the provisions of this Act relating to fishing,

hunting or trapping in any manner, shall within the discretion of the Court or Jury trying the offense, forfeit such fishing, hunting or trapping license, for such period of time as the Court or Jury might determine, but such period of forfeiture shall not extend beyond the remainder of the license year.

(c) No person who has had his license forfeited under this Act shall be entitled to purchase or receive from said Commission, or any of its authorized agents, a similar license for such period of forfeiture; and it shall be unlawful for such person to purchase or possess another such license for such period. Any person violating any of the provisions of this Section shall be deemed guilty of a misdemeanor and upon conviction shall be fined in a sum not less than Twenty-five Dollars (\$25) nor more than Two Hundred Dollars (\$200).

Sec. 14. For the purpose of this Act, the wildlife resources of said County are defined to be all the game birds and game animals, fur-bearing animals of all kinds, fish and other aquatic life and marine animals of all kinds.

Sec. 15. All laws and parts of laws, both general and special, prescribing an open season or period of time when it shall be lawful to take or kill any of the wildlife resources of said County, together with all laws prescribing a closed season for such killing or taking, as well as all laws or parts of laws, general or special, providing for open waters or closed waters, and all laws and parts of laws, general and special, prescribing or limiting the method or means or manner in which any of the wildlife resources of said County are taken, be and the same are hereby repealed. Any and all

laws, general and special, in conflict with the provisions of this Act are likewise repealed to the extent of such conflict only.

Sec. 16. From and after the effective date of this Act there shall be a period of time not to exceed ninety (90) days within which the Game and Fish Commission may conclude its investigations, hold its hearings, and promulgate its proclamations, rules, regulations and orders. Until such rules, regulations and orders of the Game and Fish Commission are adopted in accordance with the provisions of this Act, all general and special laws relating to the taking of any of the wildlife resources shall remain in full force and effect.

Sec. 17. It is hereby declared to be the legislative intent to enact each separate provision of this Act independent of all other provisions, and the fact that any section, word, clause, sentence, or part of this Act shall be declared unconstitutional shall in no event affect any other section, word, clause, sentence, or part thereof; and it is hereby declared to be the intention of the Legislature to have passed each sentence, section, clause or part thereof irrespective of the fact that any other section, sentence, clause or part thereof may be declared invalid.

Sec. 18. The fact that the present law does not adequately protect the wildlife resources of this State, in the said County of Brown, from depletion and waste; and the further fact that the Calendars of both Houses of the Legislature are crowded, create an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each House

H. B. No. 258

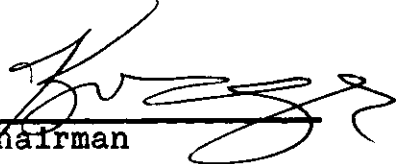
be suspended, and said Rule is hereby suspended, and that this Act shall take effect and be in force from and after its passage, and it is so enacted.

Austin, Texas

May 5, 1959

Hon. Ben Ramsey
President of the Senate
Sir:

We, your Committee on GAME AND FISH,
to whom was referred H. B. No. 258, have had the same under
consideration, and we are instructed to report it back to the
Senate with the recommendation that it do _____
pass _____ and be _____ printed.


Chairman

ENROLLED

H. B. No. 258

AN ACT

making it unlawful except under the provisions of this Act, for any person to hunt, take, kill or attempt to kill, or possess, any game bird or game animal in Brown County at any time; to take, kill or trap or attempt to take, kill or trap any fur-bearing animal in said County or to take or attempt to take any fish or other aquatic life or marine animals from said County by any means or method; providing the powers, duties and authority of the Game and Fish Commission; requiring the Game and Fish Commission to make investigation with respect to the depletion and waste of the wildlife resources of said County; requiring the Commission to provide an open season or period of time when it shall be lawful to take a portion of the wildlife resources of said County; providing that certain acts shall be unlawful unless the owner of the land or water gives consent thereto; defining depletion and waste; providing for the issuance of the antlerless deer permit; providing for a public hearing; providing for the adoption of proclamations, orders, rules or regulations of the Game and Fish Commission and the effective period thereof; providing for the publication of the regulations; providing venue for suits to test the validity of this Act or of the proclamations, rules, regulations or orders of the Commission; providing a penalty; providing for the forfeiture of licenses; defining wildlife resources; repealing certain laws; prescribing a period of time within which the Game and Fish Commission may conclude its investigations, hold its hearings, and promulgate its proclamations, rules, regulations and orders; providing a savings clause; and declaring an emergency.

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or attempt to hunt, take or kill any game bird or game animal in said County at any time; or to take, kill, trap or possess, or attempt to take, kill or trap any fur-bearing animal in said County at any time; or to take or attempt to take any fish by any means or method in said County at any time; unless the owner of the land or the water, or his duly authorized agent, shall give consent thereto.

Sec. 2. It shall be the duty of the Game and Fish Commission to conduct, from time to time, or continuously, scientific research investigations and studies of the supply, economic value, environment, breeding habits, and so far as possible the sex ratio of the different species of wildlife resources as well as the factors affecting their increase or decrease, particularly with reference to hunting, trapping, fishing, disease, infestation, predation, agricultural pressure, over-population, and any and all other factors that enter into a reduction or an increase in the supply of such wildlife resources of the said County. Pursuant to and based upon such studies, said Commission shall enter its findings of fact with respect thereto, and if, in the opinion of the Commission, an open season or period of time may be safely provided for any of the wildlife resources of said County, said Commission is authorized and directed from time to time to provide an open season or period of time when such wildlife resources may be taken. The proclamation, rule, or regulation issued by the Commission shall be specific as to the quantity, species, sex, and in so far as possible, age or size that may be taken. Such proclamation, rule or regulation shall provide the method or means that may be resorted to as well as the area, county or portion of the county where such wildlife resources

may be taken. In order to prevent depletion or waste of the wildlife resources of said County, the Game and Fish Commission shall have authority from time to time by proclamation, rule or regulation to conserve the wildlife resources of said County by an open season or period of time when it shall be lawful to take a portion of such wildlife resources of said County.

Sec. 3. When said Commission finds from its investigations herein provided for, that danger of depletion, as defined in this Act, of any species of fish, game bird, game animal or fur-bearing animal exists in any portion of the said County, it shall be the duty of said Commission to revoke or modify or otherwise amend its order or orders so as to deter or prevent contribution to depletion of such species by the taking thereof. When said Commission finds that danger of waste, as defined in this Act, of any of such species of fish, game bird, game animal or fur-bearing animal, or sex thereof, exists in any portion of said County, it shall be the duty of said Commission to issue or amend or revoke or modify such of its rules and regulations as will afford to all of the people of this State the most equitable and reasonable privileges in the pursuit, taking or killing of such species or sex thereof in said area. When the Commission finds that danger of depletion exists in any area by virtue of an Act of God, the Commission shall declare a state of emergency as to such species in said area, and its orders, rules and regulations issued under such state of emergency shall take effect and be in full force immediately upon issuance thereof.

Sec. 4. "Depletion" as used in this Act shall be construed to mean reduction of a species below immediate recuperative potentials by any deleterious cause or causes.

Sec. 5. "Waste" as used in this Act shall be construed to mean supply of a species or sex thereof sufficient that a seasonal harvest thereof will not prevent or, in the case of over-population, that will aid in the re-establishment of normal numbers of such species.

Sec. 6. The Game and Fish Commission's proclamation, rule or regulation permitting the hunting or taking of antlerless deer shall not be valid until the owner or person in charge of the land upon which antlerless deer are to be taken shall have agreed in writing to the removal by hunting of such antlerless deer from his tract under supervision and regulation of the Commission; and to the number of antlerless deer which may be removed therefrom. No person shall, in any event, hunt or kill any antlerless deer without first having procured an antlerless deer permit issued by the Game and Fish Commission. Such antlerless deer permit shall be issued in such form and under such rules as may be prescribed by the Game and Fish Commission.

Sec. 7. There shall be a public hearing held in said County affected by any proposed rule, regulation or order before such proposed rule, regulation, or order is adopted in the said County. Notice of this public hearing must be given in a newspaper published in such County at least ten (10) days prior to the date of the hearing. If no newspaper is published in the County, notice of such hearing must be given in a newspaper published in an adjoining

County and in the newspaper best known to the inhabitants of the County in which the rule, regulation, or order is to be in effect. The hearing may be conducted by an employee of the Game and Fish Commission upon order of the Commission or upon order of one (1) member of the Commission, it not being necessary for the Commission or some member of the Commission to be present.

Sec. 8. Orders, rules and regulations shall be adopted by a quorum of the Commission, and only at any regular or special Commission meeting or meetings, of the date and time of which each Commissioner shall have been notified in writing by the Executive Secretary of said Commission (or the Assistant Executive Secretary in his absence), and such meetings for such purpose shall be held only in the Commission's office at Austin, Texas. Any person interested shall be entitled to be heard at such meetings and to introduce evidence as to imminence of waste or depletion, as defined in this Act. Six (6) members, or the Chairman and five (5) members of said Commission shall constitute a quorum. No order, rule or regulation, general or local, shall be adopted at any regular or special meeting of the Commission unless a quorum is present.

Sec. 9. Orders, rules and regulations adopted by the Commission shall become effective at a time fixed by the Commission but not earlier than fifteen (15) days after their adoption, except in case of emergency as provided in this Act, and shall continue in full force and effect until they shall expire by their own terms, or are revoked or amended by said Commission.

Sec. 10. Immediately after its adoption a copy of each order, rule or regulation adopted by said Commission shall be numbered and

filed in its office in Austin, Texas; and a copy thereof shall be filed in the office of the Secretary of State, and the office of each County Clerk and each County Attorney in the county or counties affected by the order, rule or regulation and a mimeographed copy shall be furnished to each employee of the Commission.

Sec. 11. The particular regulatory powers herein granted to said Commission shall not be construed to limit other and general powers conferred upon it by law.

Sec. 12. The Game and Fish Commission is hereby expressly given the power and authority to review its own orders and to modify or revise the same as it shall find the facts to warrant. Any suit that may be filed to test the validity of any proclamation, order, rule or regulation of the Commission, passed pursuant to this Act, must be brought in Travis County and not elsewhere. Such suit shall be advanced by trial and determined as quickly as possible. In all such trials the burden of proof shall be upon the party complaining of such order, proclamation, rule or regulation to show it is invalid.

Sec. 13. (a) Any person who shall violate any provision of this Act, or any person who shall violate any proclamation, order, rule, or regulation issued by the Game and Fish Commission under the provisions of this Act, shall be deemed guilty of a misdemeanor and upon conviction therefor shall be fined a sum not less than Twenty-five Dollars (\$25) nor more than Two Hundred Dollars (\$200).

(b) Any person convicted of violating this Act or any proclamation, order, rule or regulation of the Game and Fish Commission under the provisions of this Act relating to fishing,

hunting or trapping in any manner, shall within the discretion of the Court or Jury trying the offense, forfeit such fishing, hunting or trapping license, for such period of time as the Court or Jury might determine, but such period of forfeiture shall not extend beyond the remainder of the license year.

(c) No person who has had his license forfeited under this Act shall be entitled to purchase or receive from said Commission, or any of its authorized agents, a similar license for such period of forfeiture; and it shall be unlawful for such person to purchase or possess another such license for such period. Any person violating any of the provisions of this Section shall be deemed guilty of a misdemeanor and upon conviction shall be fined in a sum not less than Twenty-five Dollars (\$25) nor more than Two Hundred Dollars (\$200).

Sec. 14. For the purpose of this Act, the wildlife resources of said County are defined to be all the game birds and game animals, fur-bearing animals of all kinds, fish and other aquatic life and marine animals of all kinds.

Sec. 15. All laws and parts of laws, both general and special, prescribing an open season or period of time when it shall be lawful to take or kill any of the wildlife resources of said County, together with all laws prescribing a closed season for such killing or taking, as well as all laws or parts of laws, general or special, providing for open waters or closed waters, and all laws and parts of laws, general and special, prescribing or limiting the method or means or manner in which any of the wildlife resources of said County are taken, be and the same are hereby repealed. Any and all

laws, general and special, in conflict with the provisions of this Act are likewise repealed to the extent of such conflict only.

Sec. 16. From and after the effective date of this Act there shall be a period of time not to exceed ninety (90) days within which the Game and Fish Commission may conclude its investigations, hold its hearings, and promulgate its proclamations, rules, regulations and orders. Until such rules, regulations and orders of the Game and Fish Commission are adopted in accordance with the provisions of this Act, all general and special laws relating to the taking of any of the wildlife resources shall remain in full force and effect.

Sec. 17. It is hereby declared to be the legislative intent to enact each separate provision of this Act independent of all other provisions, and the fact that any section, word, clause, sentence, or part of this Act shall be declared unconstitutional shall in no event affect any other section, word, clause, sentence, or part thereof; and it is hereby declared to be the intention of the Legislature to have passed each sentence, section, clause or part thereof irrespective of the fact that any other section, sentence, clause or part thereof may be declared invalid.

Sec. 18. The fact that the present law does not adequately protect the wildlife resources of this State, in the said County of Brown, from depletion and waste; and the further fact that the Calendars of both Houses of the Legislature are crowded, create an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each House

H. B. No. 258

be suspended, and said Rule is hereby suspended, and that this Act shall take effect and be in force from and after its passage, and it is so enacted.

President of the Senate

Speaker of the House

I hereby certify that H. B. No. 258 was passed by the House on April 29, 1959, by the following vote: Yeas 146, Nays 2.

Chief Clerk of the House

I hereby certify that H. B. No. 258 was passed by the Senate on May 8, 1959, by the following vote: Yeas 29, Nays 1.

Secretary of the Senate

APPROVED:

5-26-59

Date

Governor

11:45

James H. Stearns

H. B. No. 258

By: S. Smith

A BILL

To Be Entitled

An Act providing that the Game and Fish Commission shall have regulatory authority over the wild-life resources of Brown County; and declaring an emergency.

FILED FEB 2 1959

FEB 3 1959

READ 1ST TIME
AND REFERRED TO COMMITTEE ON

Game & Fish

FEB 17 1959 REPORTED FAVORABLY ~~SENT TO PRINTER.~~

FEB 17 1959 ORDERED NOT PRINTED SENT TO SPEAKER

APR 29 1959

____ READ SECOND

TIME _____ AND

ORDERED _____ ENGROSSED by

Three Voice Vote

Dorothy Hallman

Chief Clerk, House of Representatives

APR 29 1959

Constitutional
Rule requiring bills to be read on
three several days suspended by
a four-fifths vote.

Yeas 141 Nays 4

Dorothy Hallman

Chief Clerk, House of Representatives

APR 29 1959

Read third time.

and Passed

by following vote yeas 146

Nays 2

Dorothy Hallman

Chief Clerk

HOUSE OF REPRESENTATIVES

APR 29 1959 SENT TO ENGROSSING CLERK

ENROLLED
MAY 11 1959
Dorothy Hallman

Game + Fish

By: Sudderth

H. B. No. 258

A BILL TO BE ENTITLED

AN ACT

making it unlawful except under the provisions of this Act, for any person to hunt, take, kill or attempt to kill, or possess, any game bird or game animal in Brown County at any time; to take, kill or trap or attempt to take, kill or trap any fur-bearing animal in said County or to take or attempt to take any fish or other aquatic life or marine animals from said County by any means or method; providing the powers, duties and authority of the Game and Fish Commission; . . . etc.; and declaring an emergency.

- 2- 2-59 Filed.
- 2- 3-59 Read first time and referred to Committee on Game and Fisheries.
- 2-17-59 Reported favorably, ordered not printed. Sent to Speaker.
- 4-29-59 Read second time and ordered engrossed by a viva-voce vote.
- 4-29-59 Constitutional Rule requiring bills to be read on three several days suspended by a four-fifths vote: Yeas 141, Nays 4.
- 4-29-59 Read third time and passed by the following vote: Yeas 146, Nays 2.

Dorothy Hallman
Chief Clerk, H. of R.

- 4-29-59 Sent to Engrossing Clerk.
- 4-29-59 Engrossed.

Oren G. Gaudin
Engrossing Clerk, H. of R.

MAY 4 1959 RETURNED FROM ENGROSSING CLERK

MAY 4 1959 SENT TO SENATE

MAY 4 1959

IN THE SENATE

Received from
the House.

MAY 4 1959

Read first time
and referred to Committee
on Game + Fish

MAY 5 1959

Reported Favorably.

MAY 8 1959

READ SECOND TIME,
AND PASSED TO THIRD READING

MAY 8 1959

Senate Rule 32 and
Constitutional Rule (Sec. 32, Art. III)
suspended by a vote of 29 yeas,
1 nays, to place bill on third
reading and final passage.

MAY 8 1959

READ THIRD TIME AND PASSED
BY THE FOLLOWING VOTE:

Yeas 29 Nays 1
Charles Schnabel
Secretary of the Senate

MAY 11 1959

SENT TO HOUSE

MAY 11 1959

RETURNED FROM SENATE

Wm. Hallinan

Deputy Clerk, House of Representatives

MAY 11 1959 SENT TO ENROLLING CLERK